

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

EUGENE WESTBROOK

APPELLANT,

**v.
DIVISION OF EMPLOYMENT SECURITY**

RESPONDENT.

DOCKET NUMBER WD77570

DATE: March 10, 2015

Appeal From:

Labor and Industrial Relations Commission County

Appellate Judges:

Division Three: Victor C. Howard, Presiding Judge, James E. Welsh, Judge and Gary D. Witt, Judge

Attorneys:

David A. Lunceford and Michael Rahmberg, Lee's Summit, MO, for appellant.

Ninion S. Riley, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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EUGENE WESTBROOK,

APPELLANT,

v.

DIVISION OF EMPLOYMENT SECURITY,

RESPONDENT.

No. WD77570

Labor and Industrial Relations Commission

Before Division Three: Victor C. Howard, Presiding Judge, James E. Welsh, Judge and Gary D. Witt, Judge

Eugene Westbrook appeals from a denial of his claim for unemployment benefits. The Deputy determined that Westbrook was discharged for misconduct connected to his work. Westbrook appealed that decision to the Appeals Tribunal but the appeal was rejected as filed out of time. The Commission determined that he failed to establish good cause for his late filing and denied his claim. He asserts two points on appeal. First, he argues that (1) that the Commission erroneously affirmed the Appeals Tribunal's decision that Westbrook failed to meet his burden to establish good cause for the late filing of his appeal because the decision was not supported by competent and substantial evidence on the whole record, and (2) that Missouri should liberally interpret the statutory meaning of "good cause" in favor of the discharged employee.

AFFIRMED

Division Three holds:

(1) Westbrook did not meet his burden of establishing that the Commission abused its discretion when it determined that Westbrook lacked good cause in his late filing of the appeal.

(2) Because the prior appeal was untimely, the merits of Westbrook's underlying claim are not properly before us.

Opinion by Gary D. Witt, Judge

March 10, 2015

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